

S/N 09/937,452

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	SAXENA ET AL.	Docket No.:	270.60USWO
Serial No.:	09/937,452	Filed:	NOVEMBER 28, 2001
Int'l Appln No.:	PCT/CA00/00305	Int'l Filing Date:	MARCH 24, 2000
Title:	MICROPROPAGATION AND PRODUCTION OF PHYTOPHARMACEUTICAL PLANTS		

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CERTIFICATE UNDER 37 CFR 1.6(d).

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on February 17, 2003.

By:

Name: Sheryl A. Boerboom

RESPONSE TO ELECTION/RESTRICTION REQUIREMENTCommissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This paper is being submitted in response to the Election/Restriction Requirement mailed January 15, 2003, said period of response being extended from February 15, 2003, which falls on a Saturday extending the time for response to Monday, February 17, 2003. Examination on the merits is respectfully requested.

Without acquiescing to the statements made therein, Applicants respond to the species election requirement as follows: Applicants traverse all such requirements, but provisionally elect the *Hypericum perforatum* plant species for prosecution in the instant application. This species is specifically recited in claims 12-18. At least claims 1-11 and 40-48 are generic.

Applicants traverse the requirement to elect certain species in the various claims. All of the claims for which species election is required are dependent to generic claims which read on the non-elected species. In examining the generic claims the Examiner will necessarily have to consider non-elected as well as elected species. Accordingly, the requirement for Applicants to elect certain species from within certain claims is improper. The requirement is also improper

because Applicants are permitted to include a reasonable number of species in claims dependent thereto. Applicants submit that their claims for which election is required include no more than a reasonable number of species and, thus, it is improper to require Applicants to elect certain species from within these claims.

Further, Applicants understand that if a generic claim is found allowable, the species election requirement will be withdrawn.

If the Examiner persists in requiring the restriction discussed, Applicants will withdraw the non-elected claims from consideration and maintain their provisional elections.

Respectfully submitted,

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Dated:

Feb 17, 2003

By

Mark T. Skoog

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